

**UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL ROBB,

Plaintiff

V.

VERDE ENERGY USA, INC.,

Defendant

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

**Case No.:** 3:15-cv-153

## COMPLAINT AND DEMAND FOR JURY TRIAL

## COMPLAINT

MICHAEL ROBB (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY USA, INC. (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

## JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania  
and as such, personal jurisdiction is established.

1           4.     Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2                                   **PARTIES**

3           5.     Plaintiff is a natural person residing Central City, Pennsylvania  
4 15926.

5           6.     Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

6           7.     Defendant is a corporation that has its office located in Norwalk,  
7 Connecticut 06851.

8           8.     Defendant is a “person” as that term is defined by 47 U.S.C.  
9 §153(39).

10          9.     Defendant acted through its agents, employees, officers, members,  
11 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
12 representatives, and insurers.

13                                   **FACTUAL ALLEGATIONS**

14          10.    Plaintiff has a cellular telephone number that he has had for more  
15 than one year.

16          11.    Plaintiff has only used this number as a cellular telephone number.

17          12.    The phone number has been assigned to a cellular telephone service  
18 for which Plaintiff incurs a charge for incoming calls.

19          13.    Plaintiff never provided permission to Defendant to call his cellular  
20 telephone number or to contact him regarding any goods or services offered by  
21  
22  
23  
24  
25

1 Defendant.

2 14. Beginning in January 2015 and thereafter, Defendant called Plaintiff  
3 on his cellular telephone.

4 15. When contacting Plaintiff on his cellular telephone, Defendant used an  
5 automatic telephone dialing system and automatic and/or pre-recorded messages.  
6

7 16. Defendant's messages would state its name and that its call was "for  
8 marketing purposes."

9 17. Defendant's telephone calls were not made for "emergency purposes."  
10

11 18. Defendant called Plaintiff's cellular telephone on April 7, 2015.

12 **DEFENDANT VIOLATED THE**  
13 **TELEPHONE CONSUMER PROTECTION ACT**

14 19. Plaintiff incorporates the forgoing paragraphs as though the same were  
15 set forth at length herein.

16 20. Defendant initiated multiple automated telephone calls to Plaintiff's  
17 cellular telephone using a prerecorded voice.  
18

19 21. Defendant initiated these automated calls to Plaintiff using an  
20 automatic telephone dialing system.  
21

22 22. Defendant's calls to Plaintiff were not made for emergency purposes.

23 23. Defendant's calls to Plaintiff, in and after January 2015, were not  
24 made with Plaintiff's prior express consent.  
25

1           24. Defendant's acts as described above were done with malicious,  
2 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
3 under the law and with the purpose of harassing Plaintiff.

4           25. The acts and/or omissions of Defendant were done unfairly,  
5 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
6 lawful right, legal defense, legal justification or legal excuse.

7           26. As a result of the above violations of the TCPA, Plaintiff has suffered  
8 the losses and damages as set forth above entitling Plaintiff to an award of  
9 statutory, actual and trebles damages.  
10

11  
12                                   **PRAYER FOR RELIEF**

13           WHEREFORE, Plaintiff, MICHAEL ROBB, respectfully prays for a  
14 judgment as follows:  
15

- 16           a. All actual damages suffered pursuant to 47 U.S.C. §  
17           227(b)(3)(A);  
18           b. Statutory damages of \$500.00 per violative telephone call  
19           pursuant to 47 U.S.C. § 227(b)(3)(B);  
20           c. Treble damages of \$1,500.00 per violative telephone call  
21           pursuant to 47 U.S.C. §227(b)(3);  
22           d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
23           e. Any other relief deemed appropriate by this Honorable Court.  
24  
25

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, MICHAEL ROBB, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 05-29-15

KIMMEL & SILVERMAN, P.C.

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